

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

---

**ERIC JOHNSON, also known as Debah J. Smith,**

**Plaintiff,**

**v.**

**9:08-CV-158  
(FJS/DRH)**

**ANKESH NIGAM; RODGERS, John Doe;  
AYSHIA ENU, Physician, Hudson Correctional  
Facility; PETER BOGARSKI; REUTENEUR,  
Jane Doe; MCCOY, John Doe; H.M. MILES;  
JOYCE DUKE; WOLFF, John Doe; ROTHER,  
Jane Doe; GEORGE, John Doe; TESTO, John  
Doe; PETER BEHRLE; M. GRAZIANO;  
MICHAEL AMBROSINO; PHILIP HEATH;  
T. MAHAR, Senior Correction Counselor,  
Greene Correctional Facility; T. GAINES;  
CAULFEILD, John Doe; JOHN DOE 1;  
JOHN DOE 2; KAREN MEICHT, Nurse,  
Hudson Correctional Facility; WINNIE,  
Lieutenant, Hudson Correctional Facility;  
and COFFEY, John Doe,**

**Defendants,  
Cross-Claimants,  
and Cross-Defendants.**

---

**APPEARANCES**

**OF COUNSEL**

**ERIC JOHNSON also known  
as Debah J. Smith**  
Brooklyn, New York 11213  
Plaintiff *pro se*

**D'AGOSTINO, KRACKELER, MAGUIRE  
& CARDONA, P.C.**  
The Sage Mansion  
16 Sage Estate  
Menands, New York 12204  
Attorneys for Defendants Nigam and Rodgers

**MAE A. D'AGOSTINO, ESQ.  
MIA D. VANAUKEN, ESQ.**

**OFFICE OF THE NEW YORK  
STATE ATTORNEY GENERAL**

The Capitol

Albany, New York 12224-0341

Attorneys for Defendants Enu, Bogarski,

Reuteneaur, McCoy, Miles, Duke,

Wolff, Rother, George, Testo, Behrle,

Graziano, Ambrosino, Heath, Mahar,

Gaines, Caulfeild, Meicht, Winnie

and Coffey

**DEAN J. HIGGINS, AAG**

**SCULLIN, Senior Judge**

**ORDER**

Plaintiff, formerly an inmate in the custody of the New York State Department of Correctional Services ("DOCS"), commenced this action pursuant to 42 U.S.C. §§ 1983, 1985, alleging that Defendants, twenty-one DOCS employees and two private physicians, violated his constitutional rights under the Eighth and Fourteenth Amendments. *See, generally*, Amended Complaint. On February 2, 2010, Defendants Nigam and Rodgers, the two private physicians, moved for summary judgment. *See* Dkt. No. 94. Plaintiff opposed that motion. *See* Dkt. No. 113. In a Report-Recommendation and Order dated August 30, 2010, Magistrate Judge Homer recommended that this Court grant Defendants Nigam and Rodgers' motion for summary judgment. *See* Dkt. No. 114 at 20. Magistrate Judge Homer also dismissed all the cross-claims of all Defendants. *See id.* at 21. The parties did not file any objections to Magistrate Judge Homer's Report-Recommendation and Order.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (citation and

footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Homer's August 30, 2010 Report-Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

**ORDERS** that Magistrate Judge Homer's August 30, 2010 Report-Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

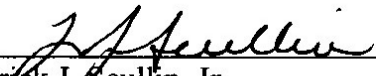
**ORDERS** that Defendants Nigam and Rodgers' motion for summary judgment is **GRANTED**; and the Court further

**ORDERS** that the cross-claims of all Defendants are **DISMISSED**; and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: September 18, 2010  
Syracuse, New York

  
\_\_\_\_\_  
Frederick J. Scullin, Jr.  
Senior United States District Court Judge